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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,547	01/02/2004	Concetta Lombardo	23745.00	8755

7590 06/23/2004

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EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,547

Applicant(s)

LOMBARDO ET AL.

Examiner

Robert G. Santos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01022004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwarz et al. '667. Schwarz et al. '667 show the claimed limitations of a towel assembly (100) comprising a towel (121) having an aperture (122) located therein and at least one pillow (123) arranged proximate the aperture; attachment means (124) for attaching the at least one pillow to the towel, wherein the attachment means is sewing; and wherein the at least one pillow is a single circular pillow attached to the periphery of the centered aperture (as shown in Figure 4 and as described in column 3, lines 60-62).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5, 6, 10, 12, 13, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chalk '571 in view of Lopes '219. Chalk '571 lacks the use of at least one

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rectangular pillow attached in a corner of the towel (10) by hook and loop fastening adjacent the aperture. Lopes '219 provides the basic teaching of a towel (12) provided with at least one rectangular pillow (52) attached in a corner thereof by hook and loop fastening (54, 56). The skilled artisan would have found it obvious at the time the invention was made to provide the towel of Chalk '571 with at least one rectangular pillow attached in a corner of the towel by hook and loop fastening adjacent the aperture in order to provide enhanced user comfort.

With regards to claims 6, 12, 13, 16, and 18, Chalk '571, as modified by Lopes '219, does not specifically disclose the use of two, three, or four pillows attached proximate to the aperture. The skilled artisan would have found it obvious at the time the invention was made to provide the towel of Chalk '571, as modified by Lopes '219, with two, three, or four pillows attached proximate to the aperture since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

With further regards to claims 12, 13, 16, and 18, Chalk '571, as modified by Lopes '219, does not specifically disclose a condition wherein the towel is square or circular in shape. The skilled artisan would have also found it obvious to provide the towel of Chalk '571, as modified by Lopes '219, with a square or circular perimeter, since such a modification would have been generally recognized as being within the level of ordinary skill in the art.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarz et al. '667. Schwarz et al. '667 disclose the use of a single circular pillow (123) instead of four arcuate pillows as claimed. The skilled artisan would have found it obvious at the time the invention

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was made to replace the single circular pillow of Schwarz et al. '667 with four arcuate pillows since such a modification would have been generally considered as a substitution of art-recognized equivalents.

6. Claims 9, 11, 14, 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chalk '571 in view of Lopes '219, and further in view of Roper, III '850. Chalk '571, as modified by Lopes '219 does not specifically disclose the use of an aperture located along one edge or corner of the towel or the use of a second aperture. Roper, III '850 provides the basic teaching of a support device (10) provided with a plurality of apertures (16, 16', 16'') located proximate edges and corners thereof. The skilled artisan would have found it obvious at the time the invention was made to provide the towel of Chalk '571, as modified by Lopes '219, with an aperture located along one edge or corner of the towel or the use of a second aperture in order to allow greater selection "for positioning the umbrella relative to the [towel]" (see Roper, III '850, Figure 7 and column 4, lines 9-12).

With regards to claims 11, 14, and 19, Chalk '571, as modified by Lopes '219 and as further modified by Roper, III '850, does not specifically disclose the use of a plurality of pillows attached proximate to the aperture(s). The skilled artisan would have found it obvious at the time the invention was made to provide the towel of Chalk '571, as modified by Lopes '219 and as further modified by Roper, III '850, with a plurality of pillows attached proximate to the aperture(s) since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

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With further regards to claim 14, Chalk '571, as modified by Lopes '219 and as further modified by Roper, III '850, does not specifically disclose a condition wherein the towel is square in shape. The skilled artisan would have also found it obvious to provide the towel of Chalk '571, as modified by Lopes '219 and as further modified by Roper, III '850, with a square perimeter, since such a modification would have been generally recognized as being within the level of ordinary skill in the art.

With further regards to claims 14 & 19 and as concerns claim 15, Chalk '571, as modified by Lopes '219 and as further modified by Roper, III '850, does not specifically disclose the use of at least one pillow which is arcuate in shape. The skilled artisan would have found it obvious to replace the rectangular pillow of Chalk '571, as modified by Lopes '219 and as further modified by Roper, III '850, with at least one pillow which is arcuate in shape since such a modification would have been generally recognized as being within the level of ordinary skill in the art.

7. Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarz et al. '667 in view of Roper, III '850. Schwarz et al. '667 do not specifically disclose a condition wherein the aperture is located in a corner or adjacent an edge of the towel. Roper, III '850 provides the basic teaching of a support device (10) provided with a plurality of apertures (16, 16', 16'') located proximate edges and corners thereof. The skilled artisan would have found it obvious at the time the invention was made to provide the towel of Schwarz et al. '667 with an aperture located along one edge or corner of the towel or the use of a second aperture in order to

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allow greater selection "for positioning the umbrella relative to the [towel]" (see Roper, III '850, Figure 7 and column 4, lines 9-12).

With further regards to claims 14 and 17, Schwarz et al. '667, as modified by Roper, III '850, do not specifically disclose a condition wherein the towel is square or circular in shape. The skilled artisan would have also found it obvious to provide the towel of Schwarz et al. '667, as modified by Roper, III '850, with a square or circular perimeter, since such a modification would have been generally recognized as being within the level of ordinary skill in the art.

With further regards to claim 14, Schwarz et al. '667, as modified by Roper, III '850, disclose the use of a single circular pillow (123) instead of four arcuate pillows as claimed. The skilled artisan would have found it obvious at the time the invention was made to replace the single circular pillow of Schwarz et al. '667, as modified by Roper, III '850 with four arcuate pillows since such a modification would have been generally considered as a substitution of art-recognized equivalents.

Conclusion

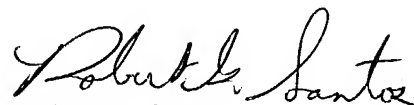
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sullivan '309, Sullivan '846, Urgola '346, Kazanowski et al. '935, Wolf '947, Storie '609, and Alexander '344.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tu-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
June 18, 2004